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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,231

12/02/2003

Don J. Nguyen

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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/727,231	<b>Applicant(s)</b> NGUYEN, DON J.	
	<b>Examiner</b> Etienne P. LeRoux	<b>Art Unit</b> 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-7, 9-11, 15-21 and 23 is/are rejected.
- 7) ☒ Claim(s) 8, 12-14 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Prosecution Reopened***

In view of the appeal brief filed on 2/27/2008, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Apu M Mofiz/

Supervisory Patent Examiner, Art Unit 2161

***Claim Status***

Claims 1-23 are pending.

***Claim Objection***

Claims 8, 12-14 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-7, 9, 10, 15-21 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,167,289 (Ball et al), hereafter Ball.

Regarding claims 1, 7, 9, 15, 17, 18, 23, Ball discloses:

Ball discloses:

at least one electronic component

[abstract; portable phone, Fig 1, phone power 40]

a back-up battery to provide a back-up voltage supply on a back-up supply node

[col 1, lines 60-65; the external battery provides power at all times, when present and when the voltage is above the minimum value, if the external battery voltage falls low, the system automatically switches to internal battery power, i.e., **the internal battery is the backup battery**, Fig 1, 44, VBATT INT]

a battery check circuit to be powered by the back-up voltage supply [col 9, lines 38-40, if the external battery is removed or at too low a voltage, the software automatically switches to the internal battery]

in an attempt to provide power at system power-on

[abstract; whenever an external battery is present with a voltage above a predetermined minimum value, the external battery will be connected to the phone power input to provide power to operate the phone so that the internal battery lifetime is extended]

whether to provide power from a battery different than said back-up battery to the at least one electronic component by comparing the battery's power level to a predetermined power level [col 9, lines 35-40; the software is designed to always provide power from the external battery when present and if it has a sufficiently high voltage, examiner interprets "battery's power level" as the backup battery's power level, examiner maps the external battery to "a battery different from said backup battery" because the internal battery is the backup battery]

Regarding claims 2, 16, 20 and 21, Ball discloses wherein the battery check circuit provides power from the battery to the at least one electronic component if the battery power level is at least the predetermined power level and wherein the battery check circuit prevents the battery from providing power to the at least one electronic component if the battery power level is less than the predetermined power level [abstract, col 9, lines 38-41; if the external battery is detected to be

removed or at too low a voltage, the software is arranged to automatically switch to the internal battery]

Regarding claim 3, Ball discloses wherein the predetermined power level is based on a voltage or power requirement of one or more of the at least one electronic component [abstract]

Regarding claim 5, 10, Ball discloses wherein the latch which is reset to a second state when the signal indicating availability to the at least one electronic component of power from the battery is received by the latch, the battery check circuit disconnecting the back-up supply node from the battery check circuit when the latch is in the second state [abstract; whenever an external battery is present with a voltage above a predetermined minimum , the external battery will be connected to the phone input to provide power to operate the phone, examiner interprets the internal battery as the backup battery and the external battery as “a battery different from said backup battery”]

Regarding claim 6, Ball discloses wherein power from the back-up battery is supplied to the at least one electronic component while the latch is in the first state, and wherein power from the back-up battery is disconnected from the at least one electronic component when the latch is in the second state [abstract; when the external battery voltage falls below the minimum value, or the external battery is removed, the unit automatically switches to internal battery power (i.e., the backup battery)]

Regarding claim 19, Ball discloses a processor [Fig 1, microcontroller]

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ball as applied to claim 1 above, and further in view of US Pat No 4,639,657 (Friedrich), hereafter Friedrich.

Regarding claim 4, Ball discloses the elements of the invention as claimed above but does not disclose a latch which is set to a first state in response to the system being turned on to provide power exclusively from the back-up supply node when the system is turned on. Friedrich discloses a backup battery 51 (Fig 1) for startup purposes is connected across winding 15 by normally-open switch 53 and a blocking diode 55 [[col 6, lines 25-27]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ball to include above limitation(s) based on the teaching of Friedrich for the purpose of providing a reliable power source for startup (power-on) because the normal power is not available during startup (power-on).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ball

Regarding claim 11, Ball discloses the elements of claim 7 as noted above but does not disclose wherein powering the battery check circuit comprises sensing an on button being depressed, enabling power to the battery check circuit, maintaining power to the battery check circuit while the power level of the first battery is tested. Official Notice is taken that an on-button is well-known and expected in the art. It would have been obvious to one of ordinary

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skill in the art at the time the invention was made to modify Ball to include an on-button to obtain wherein powering the battery check circuit comprises sensing an on button being depressed, enabling power to the battery check circuit, maintaining power to the battery check circuit while the power level of the first battery is tested for the purpose of initiating and terminating the testing of the battery as and when required.

### ***Response to Arguments***

Applicant's arguments filed 5/4/2007 have been fully considered but they are moot based on above new grounds of rejection.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached Monday through Friday between 8:00 am and 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

4/25/2008

/E. P. L./

Primary Examiner, Art Unit 2161

/Apu M Mofiz/

Supervisory Patent Examiner, Art Unit 2161